

FILED

FEB 28 2019

U.S. DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
ST. LOUIS

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. ) NO. S1-4:18-cr-00155-AGF-NCC  
 )  
 HARLEY A. POSPISIL, )  
 )  
 Defendant. )

**SUPERSEDING INDICTMENT**

**COUNT I**

The Grand Jury charges that:

At all times pertinent to the charges in this indictment:

1. Federal law defined the term:

- (a) "minor" to mean any person under the age of eighteen years (18 U.S.C. § 2256(a));
- (b) "sexually explicit conduct" to mean actual or simulated
  - (i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex,
  - (ii) bestiality,
  - (iii) masturbation,
  - (iv) sadistic or masochistic abuse, or

- (v) lascivious exhibition of the genitals or pubic area of any person (18 U.S.C. §2256(2)(A)); and
- (c) "computer" to mean an electronic, magnetic, optical, electrochemical or other high speed data processing device performing logical, arithmetic or storage functions, including any data storage facility or communications facility directly related to or operating in conjunction with such device. (18 U.S.C. §2256(6));
- (d) "child pornography" to mean any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where--
  - (A) the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct; or
  - (C) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct (18 U.S.C. §2256(8)).

2. The "Internet" was, and is, a computer communications network using interstate and foreign lines to transmit data streams, including data streams used to store, transfer and receive graphic files.

3. Between on or about August 1, 2016 and December 21, 2016, in the Eastern District of Missouri, and elsewhere,

**HARLEY A. POSPISIL,**

the defendant herein, did knowingly receive images of child pornography over the internet, a

means or facility of interstate commerce, and these images were visual depictions that involved the use of a minor engaging in sexually explicit conduct and such visual depictions were of a minor engaging in sexually explicit conduct, including but not limited to the following:

- 1) "245" – a graphic image file of a minor prepubescent female with a penis near her mouth;
- 2) "imgcache.0\_embedded\_10.jpg" – a graphic image file of a minor prepubescent female in a lascivious display of her genitals;
- 3) "imgcache.0\_embedded\_104.jpg" – a graphic image file of a minor female toddler-aged child' genitals being penetrated by an adult;
- 4) "imgcache.0\_embedded\_175.jpg" – a graphic image file depicting the defendant's face in front of an image of a minor prepubescent female in a lascivious display of her genitals.

In violation of Title 18, United States Code, Section 2252A(a)(2).

**COUNT II**

The Grand Jury further charges that:

1. The allegations contained in paragraphs one, two, and three of Count I of this Indictment are incorporated by reference as if fully set forth herein.
2. Between on or about January 1, 2012, and April 19, 2013, in the Eastern District of Missouri, and elsewhere,

**HARLEY A. POSPISIL,**

the defendant herein, did knowingly possess material that contains images of child pornography that was produced using materials that traveled in interstate and foreign commerce, to wit, a

Samsung Smart Phone with SD card, that was produced outside of Missouri and therefore has traveled in interstate and foreign commerce, and said Samsung Smart Phone with SD Card contained child pornography, including but not limited to the following:

1. "1366327985046.jpg" - a graphic image file that depicts a prepubescent minor female in a lascivious display of her genitals;
2. "4\_1.jpg" - a graphic image file that depicts a prepubescent minor female bound with ropes and in a lascivious display of her genitals;
3. "1366327981341.jpg" - a graphic image file of an adult female licking the genitals of a minor toddler-aged female;

In violation of Title 18, United States Code, Section 2252A(a)(5)(B).

**COUNT III**

The Grand Jury further charges that:

1. The allegations contained in paragraphs one, two, and three of Count I of this Indictment are incorporated by reference as if fully set forth herein.
2. Between on or about April 1, 2013, and April 19, 2013, in the Eastern District of Missouri, and elsewhere,

**HARLEY A. POSPISIL,**

the defendant herein, did knowingly possess images of child pornography that was produced using materials that traveled in interstate and foreign commerce, to wit, a Hewlett Packard Photo Paper, that was produced outside of Missouri and therefore has traveled in interstate and foreign commerce, and said Hewlett Packard Photo Paper contained child pornography, including but not limited to the following:

1. "th\_043123210 93 122 122lo.jpg" - a photograph that depicts a prepubescent minor female in a lascivious display of her genitals;
2. "8IMPNpu.jpg" - a photograph that depicts a prepubescent minor female in a lascivious display of her genitals;
3. "th\_724770548 th 668442857 2341" - a photograph that depicts a prepubescent minor female in a lascivious display of her genitals.

In violation of Title 18, United States Code, Section 2252A(a)(5)(B).

A TRUE BILL.

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FOREPERSON

JEFFREY B. JENSEN,  
United States Attorney

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Assistant United States Attorney